

State of Arizona  
Senate  
Forty-seventh Legislature  
First Regular Session  
2005

CHAPTER 109

**SENATE BILL 1354**

AN ACT

AMENDING TITLE 11, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3.1; PROVIDING FOR THE DELAYED REPEAL OF SECTION 11-487.06, ARIZONA REVISED STATUTES; RELATING TO THE UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 11, chapter 3, Arizona Revised Statutes, is amended  
3 by adding article 3.1, to read:

4 ARTICLE 3.1. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

5 11-487. Short title

6 THIS ARTICLE MAY BE CITED AS THE UNIFORM REAL PROPERTY ELECTRONIC  
7 RECORDING ACT.

8 11-487.01. Definitions

9 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

10 1. "DOCUMENT" MEANS INFORMATION THAT IS BOTH OF THE FOLLOWING:

11 (a) INSCRIBED ON A TANGIBLE MEDIUM OR STORED IN AN ELECTRONIC OR OTHER  
12 MEDIUM, AND RETRIEVABLE IN PERCEIVABLE FORM.

13 (b) ELIGIBLE TO BE RECORDED IN THE LAND RECORDS MAINTAINED BY A COUNTY  
14 RECORDER.

15 2. "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING ELECTRICAL,  
16 DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC OR SIMILAR  
17 CAPABILITIES.

18 3. "ELECTRONIC DOCUMENT" MEANS A DOCUMENT THAT IS RECEIVED BY A COUNTY  
19 RECORDER IN AN ELECTRONIC FORM.

20 4. "ELECTRONIC SIGNATURE" MEANS AN ELECTRONIC SOUND, SYMBOL OR PROCESS  
21 ATTACHED TO OR LOGICALLY ASSOCIATED WITH A DOCUMENT AND EXECUTED OR ADOPTED  
22 BY A PERSON WITH THE INTENT TO SIGN THE DOCUMENT.

23 5. "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE,  
24 TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE,  
25 PUBLIC CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY OR  
26 INSTRUMENTALITY OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

27 6. "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF  
28 COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS  
29 OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE  
30 UNITED STATES.

31 11-487.02. Validity of electronic documents

32 A. IF A LAW REQUIRES, AS A CONDITION FOR RECORDING, THAT A DOCUMENT BE  
33 AN ORIGINAL, BE ON PAPER OR ANOTHER TANGIBLE MEDIUM OR BE IN WRITING, THE  
34 REQUIREMENT IS SATISFIED BY AN ELECTRONIC DOCUMENT SATISFYING THIS ARTICLE.

35 B. IF A LAW REQUIRES, AS A CONDITION FOR RECORDING, THAT A DOCUMENT BE  
36 SIGNED, THE REQUIREMENT IS SATISFIED BY AN ELECTRONIC SIGNATURE.

37 C. A REQUIREMENT THAT A DOCUMENT OR A SIGNATURE ASSOCIATED WITH A  
38 DOCUMENT BE NOTARIZED, ACKNOWLEDGED, VERIFIED, WITNESSED OR MADE UNDER OATH  
39 IS SATISFIED IF THE ELECTRONIC SIGNATURE OF THE PERSON AUTHORIZED TO PERFORM  
40 THAT ACT, AND ALL OTHER INFORMATION REQUIRED TO BE INCLUDED, IS ATTACHED TO  
41 OR LOGICALLY ASSOCIATED WITH THE DOCUMENT OR SIGNATURE. A PHYSICAL OR  
42 ELECTRONIC IMAGE OF A STAMP, IMPRESSION OR SEAL NEED NOT ACCOMPANY AN  
43 ELECTRONIC SIGNATURE.

11-487.03. Recording of documents; definition

A. A COUNTY RECORDER:

1. WHO IMPLEMENTS ANY OF THE FUNCTIONS LISTED IN THIS SECTION SHALL DO SO IN COMPLIANCE WITH ADOPTED STANDARDS.

2. MAY RECEIVE, INDEX, STORE, ARCHIVE AND TRANSMIT ELECTRONIC DOCUMENTS.

3. MAY PROVIDE FOR ACCESS TO, AND FOR SEARCH AND RETRIEVAL OF, DOCUMENTS AND INFORMATION BY ELECTRONIC MEANS.

4. WHO ACCEPTS ELECTRONIC DOCUMENTS FOR RECORDING SHALL CONTINUE TO ACCEPT PAPER DOCUMENTS AS AUTHORIZED BY STATE LAW AND SHALL PLACE ENTRIES FOR BOTH TYPES OF DOCUMENTS IN THE SAME INDEX.

5. MAY CONVERT PAPER DOCUMENTS ACCEPTED FOR RECORDING INTO ELECTRONIC FORM.

6. MAY CONVERT INTO ELECTRONIC FORM INFORMATION RECORDED BEFORE THE COUNTY RECORDER BEGAN TO RECORD ELECTRONIC DOCUMENTS.

7. MAY ACCEPT ELECTRONICALLY ANY FEE THAT THE COUNTY RECORDER IS AUTHORIZED TO COLLECT.

8. MAY AGREE WITH OTHER OFFICIALS OF A STATE OR A POLITICAL SUBDIVISION OF A STATE OR OF THE UNITED STATES, ON PROCEDURES OR PROCESSES TO FACILITATE THE ELECTRONIC SATISFACTION OF PRIOR APPROVALS AND CONDITIONS PRECEDENT TO RECORDING AND THE ELECTRONIC PAYMENT OF FEES.

B. FOR THE PURPOSES OF THIS SECTION, "PAPER DOCUMENT" MEANS A DOCUMENT THAT IS RECEIVED BY A COUNTY RECORDER IN A FORM THAT IS NOT ELECTRONIC.

11-487.04. Uniformity of application and construction

IN APPLYING AND CONSTRUING THIS ARTICLE, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

11-487.05. Relation to electronic signatures in global and national commerce act

THIS ARTICLE MODIFIES, LIMITS AND SUPERSEDES THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT (P.L. 106-229; 114 STAT. 464; 15 UNITED STATES CODE SECTIONS 7001 THROUGH 7006, SECTION 7021 AND SECTION 7031) BUT DOES NOT MODIFY, LIMIT OR SUPERSEDE SECTION 101(c) OF THAT ACT (P.L. 106-229; 114 STAT. 464; 15 UNITED STATES CODE SECTION 7001(c)) OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(b) OF THAT ACT (P.L. 106-229; 114 STAT. 464; 15 UNITED STATES CODE SECTION 7003(b)).

11-487.06. Electronic recording commission

A. AN ELECTRONIC RECORDING COMMISSION IS ESTABLISHED CONSISTING OF SEVEN MEMBERS WHO ARE APPOINTED BY THE GOVERNOR. THE MEMBERSHIP SHALL CONSIST OF:

1. FOUR MEMBERS WHO ARE COUNTY RECORDERS IN THIS STATE.

2. ONE MEMBER WHO REPRESENTS AN ASSOCIATION OF TITLE COMPANIES.

3. ONE MEMBER WHO REPRESENTS AN ASSOCIATION OF MORTGAGE BANKERS.

4. ONE MEMBER WHO REPRESENTS REAL PROPERTY LAWYERS.

1 B. THE ELECTRONIC RECORDING COMMISSION SHALL ADOPT AND AMEND, IF  
2 NECESSARY, STANDARDS TO IMPLEMENT THIS ARTICLE. AFTER REVIEWING REAL  
3 PROPERTY AND RECORDING LAWS IN THIS STATE, THE ELECTRONIC RECORDING  
4 COMMISSION SHALL RECOMMEND TO THE LEGISLATURE WHAT LAWS, IF ANY, NEED TO BE  
5 MODIFIED AND WHAT THE MODIFICATIONS SHOULD BE.

6 C. TO KEEP THE STANDARDS AND PRACTICES OF COUNTY RECORDERS IN THIS  
7 STATE COMPATIBLE WITH THE STANDARDS AND PRACTICES OF RECORDING OFFICES IN  
8 OTHER JURISDICTIONS THAT ENACT A SUBSTANTIVE EQUIVALENT TO THIS ARTICLE, THE  
9 ELECTRONIC RECORDING COMMISSION SO FAR AS IS CONSISTENT WITH THIS ARTICLE,  
10 WHEN ADOPTING OR AMENDING STANDARDS SHALL CONSIDER ALL OF THE FOLLOWING:

- 11 1. STANDARDS AND PRACTICES OF OTHER JURISDICTIONS.
- 12 2. THE MOST RECENT STANDARDS ADOPTED BY NATIONAL STANDARD SETTING
- 13 BODIES, SUCH AS THE PROPERTY RECORDS INDUSTRY ASSOCIATION.
- 14 3. THE VIEWS OF INTERESTED PERSONS AND GOVERNMENTAL OFFICIALS AND
- 15 ENTITIES.
- 16 4. THE NEEDS OF COUNTIES OF VARYING SIZES, POPULATIONS AND RESOURCES.
- 17 5. STANDARDS REQUIRING ADEQUATE INFORMATION SECURITY PROTECTION TO
- 18 INSURE THAT ELECTRONIC DOCUMENTS ARE ACCURATE, AUTHENTIC, ADEQUATELY
- 19 PRESERVED AND RESISTANT TO TAMPERING.

20 Sec. 2. Delayed repeal

21 Section 11-487.06, Arizona Revised Statutes, as added by this act, is  
22 repealed from and after December 31, 2007.

23 Sec. 3. Effective date

24 This act is effective from and after December 31, 2005.

APPROVED BY THE GOVERNOR APRIL 18, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2005.

Passed the House April 4, 2005,

by the following vote: 53 Ayes,

3 Nays, 4 Not Voting

[Signature]  
Speaker of the House

Norman L. Moore  
Chief Clerk of the House

Passed the Senate February 22, 2005,

by the following vote: 28 Ayes,

1 Nays, 1 Not Voting

[Signature]  
President of the Senate

Charmine D. Bickford  
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

       day of       , 20  ,

at        o'clock        M.

        
Secretary to the Governor

Approved this        day of

      , 20  ,

at        o'clock        M.

        
Governor of Arizona

**S.B. 1354**

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this        day of       , 20  ,

at        o'clock        M.

        
Secretary of State

SENATE CONCURS IN HOUSE AMENDMENTS  
AND FINAL PASSAGE

Passed the Senate April 12, 2005,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

Klu Bennett  
President of the Senate  
Charmine Billington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

12th day of April, 2005

at 4:20 o'clock P. M.

Jennifer Ybarra  
Secretary to the Governor

Approved this 18 day of

April, 2005,

at 1:45 o'clock P. M.

Jan Nagel  
Governor of Arizona

S.B. 1354

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18 day of April, 2005,

at 11:42 o'clock P. M.

Janice K. Brewer  
Secretary of State